

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**CURTIS J. HARDY**

**V.**

**CIVIL NO. 3:16-CV-460-HTW  
CRIMINAL NO. 3:03-CR-68- HTW-1**

**UNITED STATES OF AMERICA**

**ORDER**

Before this court are two motions filed by the Petitioner, Curtis J. Hardy. The first motion **[doc. no. 144]**, is styled by Petitioner as a “Motion Letter/Judicial Notice”. It is actually a motion to have this court allow Petitioner to file a notice of appeal out of time, due to what Petitioner claims is a clerical error or mistake. Hardy contends that he was not mailed the order denying his previous motion in a timely manner, and that he did not receive the order of December 20, 2018, until February 5, 2019. Petitioner requests that the court either enter an order allowing him to timely file his appeal or allow the previously filed Judicial Notice to be construed as the Notice of Appeal.

Petitioner’s second motion **[doc. no. 145]** is styled “Petition for Mandatory Judicial Notice Pursuant to Fed. Rules of Evidence (201) d & Notice of Appeal.” This document asks this court to take judicial notice of the facts that Hardy contends establish that the order was not mailed to him in a timely manner. This document seeks the same relief as the previous motion, that the court either enter an order allowing him to timely file his appeal or allow his petition **[doc. no. 145]** to be construed as the Notice of Appeal.

This court is persuaded to grant Petitioner’s request in part. Petitioner filed his “Notice of Appeal” **[doc. no. 146]** within thirty days of February 18, 2019, the date the Notice would have been due. Additionally, there is good cause shown for the delay in filing. Therefore, this district court grants Petitioner an additional thirty days for the filing of his Notice of Appeal, in

accordance with Rule 4(a)(5) of the Federal Rules of Appellate Procedure, making the Notice of Appeal filed on March 7, 2019, timely filed.

This court returns this case to the Fifth Circuit Court of Appeals for further proceedings or dismissal, as may be appropriate.

**SO ORDERED AND ADJUDGED**, this the 29th day of May, 2019.

s/ HENRY T. WINGATE  
UNITED STATES DISTRICT JUDGE